

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MIGUEL A. BORRERO,

Plaintiff,

No. 14CV5304-LTS-SN

-against-

CAROLYN W. COLVIN, ACTING  
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

USDC SDNY
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ELECTRONICALLY FILED
DOC #: _____
DATE FILED: <u>3-19-2015</u>

MEMORANDUM ORDER ADOPTING REPORT AND RECOMMENDATION

Pro se Miguel A. Borrero (“Plaintiff”), brings this action, pursuant to Section 205(g) of the Social Security Act (the “Act”), 42 U.S.C. section 405(g), seeking judicial review of the final determination of the Acting Commissioner of Social Security (the “Commissioner”) denying his application for Social Security Disability Benefits. The Commissioner moved for to dismiss pursuant to Rule 12(b)(6) of the of the Federal Rules of Civil Procedure, arguing that Plaintiff’s claims are time-barred by Section 205(g), which sets a sixty-day limit for a claimant to file a civil action seeking review of the Commissioner’s decision. See 42 U.S.C. § 405(g). Before the Court is the Report and Recommendation (the “Report”) of Magistrate Judge Sarah Netburn, recommending that the Commissioner’s motion be denied. Plaintiff filed a timely objection to the Report.

When reviewing a report and recommendation, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C.S. § 636(b)(1)(C) (LexisNexis 2012). If the a party raises specific objections to the magistrate’s findings, the Court must subject the issues raised by these objections to de novo

review. United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997); Richards v. Calvet, No. 99CV12172, 2005 WL 743251, at \*2 (S.D.N.Y. Mar. 31, 2005). When a party makes only conclusory or general objections, or simply reiterates original arguments, however, the court will only review the magistrate's report for clear error. Camardo v. Gen. Motors Hourly-Rate Employees Pension Plan, 806 F. Supp. 380, 382 (W.D.N.Y. 1992); Orix Financial Services, Inc. v. Thunder Ridge Energy, Inc., No. 01CV4788, 2006 WL 587483, at \*1 (S.D.N.Y. March 8, 2006).

Plaintiff's objection merely reiterates his account of his diligent pursuit of his rights, which he believes caused him to initiate this action after the time to file had lapsed. This argument was considered and rejected in the Report and, therefore, the Court reviews the Report for clear error.

Having reviewed Magistrate Judge Netburn's thorough and well-reasoned Report, the Court finds no clear error. Therefore, the Court adopts the Report in its entirety. Accordingly, the Court grants the Commissioner's motion. The Clerk of Court is respectfully requested to enter judgment and close this case.

This Order resolves docket entry no. 10.

SO ORDERED.

Dated: New York, New York  
March 19, 2015



LAURA TAYLOR SWAIN  
United States District Judge

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